

**REMARKS**

The claims have been amended to more precisely define the invention and are now believed to clearly distinguish over the prior art. Specifically, the independent claims, claims 1 and 7 have been amended to clearly set forth the feature that the locking lug of the closure has a U-shaped recess which defines "... an arcuate path between said inner surface of said outer sidewall and said free end." (claim 1) and "... an arcuate path between said inner surface of said outer sidewall and said free end, said radially innermost portion engageable with said radially extending side of said container locking lugs to resist removal of said closure from said container by brute force."

Claims 12 and 13 directed to the container per se have been canceled.

Independent claims 1 and 7 have been rejected under 35 U.S.C. §102 (b) as being anticipated by (1) Montgomery, US 4,213,535, (2) Minnette, US 6,343,705 and (3) Vassallo, US 6,640,987. It is respectfully submitted that none of these references discloses or suggests the feature of the U-shaped recess defining an arcuate path between the inner surface of the outer sidewall and the free end.

The reference to Montgomery (4213534), in the embodiment relied upon by the Examiner, utilizes a pair of diametrically opposed locking lugs (26) and which extend along a straight line path inwardly from the inner surface of an outer

peripheral sidewall (22). The locking lugs (26) define an acute angle with respect to the inner surface of the outer peripheral sidewall (22) and not an arcuate path between the inner surface of the outer sidewall (22) and the free end.

Similarly, the Figs. 14, 15 embodiment of Minnette (6343705) shows the lug (227) extending inwardly from the interior surface of the sidewall 222 along a substantially straight line path, disposed at what appears to be an acute angle relative to the sidewall 222.

The reference to the Vassallo (6640987) utilizes a plurality of locking teeth 49 which extend inwardly from the inner surface of the outer skirt 47 along a generally straight line path at an acute angle relative to the outer skirt.

It is respectfully submitted that none of these references or any of the other references of record suggest or disclose a closure construction in which the locking lug of the closure has a generally U-shaped recess which defines an arcuate path between the inner surface of the outer sidewall and the free end. As pointed out in the specification, the design of the closure of the present invention permits a reduction of mass of the thermoplastic melt which must flow during injection molding from an injection point at the top center of the panel 12 of the closure to the regions of the outer sidewall and the locking lug 20 projecting therefrom.

In paragraphs 10, 11 and 12 of the Office Action the Examiner has rejected

claim 10 under 35 USC §103 (a) being unpatentable over either Montgomery, Minnette or Vassallo in view of Kusz (US 5,687,863). Paragraph 13 of the Office Action indicates that claim 10 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. In a telephone conference with the undersigned on October 5, 2006, the Patent Examiner indicated that paragraph 13 was in error and that claim 10 was fact rejected as set forth in paragraphs 10, 11 and 12. The Examiner indicated that he would issue an interview summary correcting the error.

It is respectfully submitted that the invention as set forth in original claim 10 which has now been rewritten in independent form as claim 14 is in fact unobvious over the combination of art cited by the Examiner and any other art of record. Claim 14 includes the previously discussed feature of the recess defining an arcuate path between the inner surface of the outer sidewall and the free end. It is clear that Kusz, whether taken alone or in combination with the other references of record does not teach or suggest this feature as his cordal lug 70 is disposed at a small acute angle relative to the inner surface of the sidewall 28.

The shortcomings of the Kusz design (which is owned by the assignee of the present invention) had the difficulties encountered in the manufacturing thereof were discussed in the amendment filed January 5, 2006, which comments along with Mr. Robinson's Declaration dated January 4, 2006, are incorporated herein.

Enclosed herewith is a new Declaration of Philip J. Robinson setting forth the progress toward commercialization of the closure and package of the present invention. Of particular significance is the fact that the closure of the present invention can be manufactured on a commercial basis in sizes as small as 24 mm while the prior art closures manufacture by the assignee, Owens-Illinois Closure Inc. which are being replaced by the closure and package of the present invention cannot be manufactured on a commercial basis in sizes as small as 24 mm. The reduction in size results more economical closures and packages.

In view of the foregoing it is respectfully submitted that claims 1 and 7 and those dependent thereon are allowable. Claim 10 has been canceled and rewritten in independent form as newly presented claim 14. Allowance of claims 1 – 9, 11 and 14 is respectfully requested.

Respectfully submitted,

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